

G. 1. Appropriation leads to eviction.—The appropriation of land for unlawful purposes as stated in Sections 48 and 66 is a breach of the conditions of occupancy. The land is held on certain conditions, the effect of which is to defeat the estate in case of a breach of any one of them being committed. In both Sections the law gives the Government as landlord the power of re-entry on breach of the particular condition contemplated in those two Sections. So also on failure of payment of rent the Government has the power of re-entry. Forfeiture follows breach of any of the conditions, which forfeiture Government can waive or enforce as it chooses.

The principle has been recognized by the Legislature in the above two Sections and the holder of such land may be treated as wrongfully in possession and be summarily evicted in the manner provided in Section 202. (G. R. No. 5211, dated 9th September 1881.)

G. 2. Mamlatdars and Mahalkaris should sign notices of eviction when Prant officers have ordered eviction. (G. R. No. 5295, dated 1st June 1911 tem 85.)

CHAPTER XIII.

APPEALS AND REVISION.

Appeal to lie from any order passed by a revenue officer to his superior.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue officer under this Act, or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may

itself have been passed on appeal from a subordinate officer's decision or order or not.

G. 1. Pleader may not be allowed.—A pleader cannot claim to appear in proceedings under this section. (G. R. No. 8915, dated 8th December 1897.

G. 2. Commissioner's powers:—Sections 203 and 211 empower a Commissioner to take action in appeal or revision as regards any orders passed by Collector, who under section 8 performs all his duties in subordination to the Commissioner of the Division. (G. R. P. W. D. 83 W. I.—934, dated 20th June 1897.)

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Appeal when to lie to the Governor in Council.

205. No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case.

Periods within which appeals must be brought.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

N. 1. *Vide* Section 43 of Bombay Act I of 1905 (Court of Wards Act.)

Admission of
appeal after
period of
limitation.

206. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals, that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision
where last
day for ap-
peal falls on a
Sunday or a
holiday.

207. Whenever the last day of any period provided in this chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

Copy of order
to accompany
petition of
appeal.

208. Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Powers of
appellate
authority.

209. The appellate authority may either annul, reverse, modify or confirm the decision, or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

J. I. The accused was convicted under Section 60 of the Abkari Act. In appeal the first class Magistrate enhanced the sentence under section 209, Land Revenue Code.

The sentence passed by first class Magistrate in appeal was reversed.

(Queen Empress *vs.* Miya Saheb—High Court Criminal Rulings 14 of 15th February 1886.)

Section 209—

Insert the words “for reasons to be recorded in writing” between the words “may” and “either” in line one of this section and *add* the following proviso at the end of the section :—

“ Provided that it shall not be necessary for the appellate authority to record reasons in writing—

- (a) when an appeal is dismissed summarily,
- (b) when the decision or order appealed from is itself a decision or order recorded in appeal, or
- (c) when an appeal is made to the Governor in Council under section 204.”

(Bombay Act III of 1932.)

210. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to suspend execution of order of subordinate officer.

211. The Governor in Council and any revenue officer, not inferior in rank to [a] an Assistant or Deputy Collector [a] or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate revenue officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

Power of the Governor in Council and of certain revenue officers to call for and examine records and proceedings of subordinate officers ;

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely—[b] a Mámíatdár, a Mahálkari, an [c] Assistant Superintendent of Survey, and an Assistant Settlement Officer.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit.

and to pass orders there upon.

[d] Provided that an Assistant or Deputy Collector shall not himself pass such order in any matter in which a formal inquiry has been held, but shall submit the record with his

opinion to the Collector, who shall pass such order thereon as he may deem fit.

[a—a] These words were substituted for the original word "Collector" by Bom. IV of 1913, s. 76 (a).

[b] Words repealed by Bom. IV of 1913, s. 76 (b), are omitted.

[c] "An" was substituted for "and" by Act XVI of 1895.

[d] This proviso was added by Bom. IV of 1913, s. 76 (e).

J. I. Commissioners have power to revise Kabulayats under sections 60 or 62. Orders for the sale of unoccupied land and permission to occupy that land under sections 62 and 60 of Act V of 1879 come within the scope of Section 211 and which the Commissioner has jurisdiction to call for and revise and pass such orders thereon as he deems fit and that there is no cause of action against Government on account of that officer having exercised his lawful powers under that section.

Parapa Virupakshapa Hundekar

v.

The Secretary of State for India
in Council.

P. J. for 1891, p. 230.

Rules as to
decisions
or orders
expressly
made final.

212. Wherever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul, or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps and
land records
open to
inspection

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf,